

NOTE FOR: JSW

1. Attached is my analysis of the retirement annuity adjustment problem. It is very cryptic and possibly intelligible only to me. The analysis covers the CIA Retirement Act, the existing and proposed Civil Service system, the proposed Foreign Service system, and the Military system recently approved in the Pay Act. Also attached are the existing laws and proposed amendments to laws as convenient reference material.

2. The analysis shows that:

(a) CIA retirement annuitants will not get a cost-of-living increase on 1 April 1966.

(1) Only those who retire before 2 January 1966⁵ could have received such an increase; and, as you know, we had no such retirees.

(2) Even if we had retirees before 2 January 1965, the cost of living would have had to increase 3 per cent from 1964 to 1965 before a cost-of-living increase could have been granted (Section 291 (a)(1), P. L. 88-643).

(b) Civil Service retirees whose annuities commence by 1 November 1965 would be entitled to an approximately 5.2 per cent annuity increase. This represents approximately 3.7 per cent cost-of-living increase from 1962 to June of 1965 (which could go higher since the 1965 base month used for the comparison would be the month preceeding passage for enactment), plus a 1.5 per cent increase granted to annuitants whose annuities commenced after 1 October 1956 (House passed and reported out of Senate Committee H. R. 8469, Section 18 (a)).

(c) If H. R. 8469 is enacted, CIA retirement annuitants whose annuities commence by 1 November 1965 (assuming passage of H. R. 8469 in August) will not receive any cost-of-living increase in annuities without some legislative remedy, while their Civil Service counterparts would receive some 5.2 per cent increase under H. R. 8469.

(d) Further, even if H.R. 8469 is not enacted, Civil Service retirees will receive at least a 3.7 per cent increase under present cost-of-living trends as of 1 April 1966 pursuant to existing law. Such retirees' annuities commencement dates must be earlier than 2 January 1965; and, therefore, under existing legislation CIA annuitants would not be at a disadvantage when compared to cost-of-living adjustments under existing Civil Service retirement statute.

3. The wording of P.L. 88-643, Section 291 (a)(2) leaves unclear what base period is to be used to compute a price index change "of at least 3 per centum" for determining cost-of-living adjustments of annuities after 1 April 1966. Section 291 (a)(1) sets 1964 as the base for any adjustment effective 1 April 1966, yet as pointed out earlier the base period used for such comparison is 1964 rather than 1962, as provided in existing and proposed Civil Service retirement legislation, proposed Foreign Service legislation, and the recently passed Military legislation, H.R. 9075. Although there is a clearly defined base year for 1 April 1966 adjustments, there is not for subsequent adjustments. For such subsequent adjustments under P.L. 88-643 it may be possible to interpret Section 291 (a) as incorporating the 1962 base period set forth in Section 18 (a) in existing Civil Service retirement annuity legislation. If this improbable interpretation could be sustained, this would mean that CIA retirement annuitants whose annuities commenced before 2 January 1966 could be increased effective 1 April 1967 by the difference between the cost of living in 1962 and the cost of living in 1966. This would, of course, cover all retirees whose annuities commenced before 2 January 1966. However, under that interpretation there would be no way to recoup the 1.5 per cent bonused adjustment provided in the proposed Civil Service amendment, H.R. 8469.

4. Other than the above points, I will refrain from making any other comments or suggestions, thinking you will want to question me most closely on this.

SIGNED

[Redacted Signature]

STATINTL

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	P. L. 88-643		August CSR ²	H. R. 8469	Assume passage August Mil ² H. R. 9075
<u>First Increase</u>	<u>CIA</u>	<u>CSR¹</u>	<u>CSR²</u>	<u>FS²</u>	
Earliest Effective date COL increase	1 April 66	Sec. 18(a) not oper- able 1 April 66	1 Nov. if enacted Aug.	1 April 66	Effective date of Act (1 Sept. 65)
<u>Who</u>	Annuity com- mence before 2 Jan 65. <u>no</u> <u>one eligible</u>	Annuity commence before 2 Jan 65	Annuity commence by 1 Nov. (if passed Aug.)	Annuity com- mence 2 Jan 65	Entitled before effective date (1 Sept. 65)
Base	1964	1962	1962	1962	1962 (average monthly index)
Minimum CPI needed	3% 64-65	3% over 1962	None	3% from 1962-65	None
Increase	difference between 64- 65 (<u>min.</u> 3%)	difference between 1962-65	difference 1962 and latest month's CPI upon enact- ment, plus 6.5% for annuities commencing on or before 1 Oct 56 or 1.5% after.	difference between 62- 65	difference average monthly index and CPI for <u>Aug 1965</u>
<u>Subsequent Increases</u>					
New Base	Not clear. unless read 18(A)"as setting" 1962 or year on which increase based whichever later (if latter, later than 2 Jan 65, retirees will be getting large increase which CSR will not get.)	Year on which recent increase based.	Month upon which most recent in- crease based.	Not Clear. "base year of most recent COL increase" (haven't used)	Month upon which most recent in- crease based.

	<u>CIA</u>	<u>CSR¹</u>	<u>CSR²</u>	<u>FSR²</u>	<u>Mil²</u>
Effective date Subsequent in- creases	1 April (after base year.)?	1 April after base year	1st day of 3rd month following 3rd consecutive month sustaining 3% increase	1 April (after base year?)	1st day of 3rd month following 3rd consecutive month sustaining 3% increase
<u>Who</u>	Annuity commence before 2 Jan of yr pre- ceding increase	Annuity com- mence before 2 Jan of year preceding in- crease	annuity commence by effective date of increase	annuity com- mence before 2 Jan or year preceding in- crease	Entitlement before effective date of increase
Minimum CPI needed	3% (over base year 1965?)	3% over most recent base year 1965	3% over new base month sustained for 3 months	3% (over most recent base year 1965?)	3% over new base month sustained for 3 months
Amount	% rise	% rise	difference between base and highest month of 3 con- secutive months	% rise	difference between base and highest month of 3 con- secutive months

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76 STAT. 1054.

under the provisions of said paragraph (a) shall be refunded in the manner provided in section 241 for the return of contributions and interest in the case of death or separation from the Agency.

(d) Any benefits payable to a participant or to his beneficiary in respect to the additional deposits provided under this section shall be in addition to the benefits otherwise provided under this Act.

PART J—COST-OF-LIVING ADJUSTMENT OF ANNUITIES

76 Stat. 869.
5 USC 2266.

SEC. 201. (a) On the basis of determinations made by the Civil Service Commission pursuant to section 18 of the Civil Service Retirement Act, as amended, pertaining to per centum change in the price index, the following adjustments shall be made:

(1) Effective April 1, 1966, if the change in the price index from 1964 to 1965 shall have equaled a rise of at least 3 per centum, each annuity payable from the fund which has a commencing date earlier than January 2, 1965, shall be increased by the per centum rise in the price index adjusted to the nearest one-tenth of 1 per centum.

(2) Effective April 1 of any year other than 1966 after the price index change shall have equaled a rise of at least 3 per centum, each annuity payable from the fund which has a commencing date earlier than January 2 of the preceding year shall be increased by the per centum rise in the price index adjusted to the nearest one-tenth of 1 per centum.

(b) Eligibility for an annuity increase under this section shall be governed by the commencing date of each annuity payable from the fund as of the effective date of an increase, except as follows:

(1) Effective from the date of the first increase under this section, an annuity payable from the fund to an annuitant's survivor (other than a child entitled under section 221(c)), which annuity commenced the day after the annuitant's death, shall be increased as provided in subsection (a)(1) or (a)(2) if the commencing date of annuity to the annuitant was earlier than January 2 of the year preceding the first increase.

(2) Effective from its commencing date, an annuity payable from the fund to an annuitant's survivor (other than a child entitled under section 221(c)), which annuity commences the day after the annuitant's death and after the effective date of the first increase under this section, shall be increased by the total per centum increase the annuitant was receiving under this section at death.

(3) For purposes of computing an annuity which commences after the effective date of the first increase under this section to a child under section 221(c), the items \$600, \$720, \$1,800, and \$2,160 appearing in section 221(c) shall be increased by the total per centum increase allowed and in force under this section and, in case of a deceased annuitant, the items 40 per centum and 50 per centum appearing in section 221(c) shall be increased by the total per centum increase allowed and in force under this section to the annuitant at death. Effective from the date of the first increase under this section, the provisions of this paragraph shall apply as if such first increase were

in effect with respect to computation of a child's annuity under section 221(c) which commenced between January 2 of the year preceding the first increase and the effective date of the first increase.

(c) No increase in annuity provided by this section shall be computed on any additional annuity purchased at retirement by voluntary contributions.

(d) The monthly installment of annuity after adjustment under this section shall be fixed at the nearest dollar.

Approved October 13, 1964.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 763 (Comm. on Armed Services).

SENATE REPORT No. 1589 (Comm. on Armed Services).

CONGRESSIONAL RECORD:

Vol. 109 (1963): Oct. 30, considered and passed House.

Vol. 110 (1964): Sept. 25, considered and passed Senate,
amended.

Oct. 1, House concurred in Senate amendment.

[(d) The monthly installment of annuity after adjustment under this section shall be fixed at the nearest dollar.]

Sec. 18. (a) *Effective the first day of the third month which begins after the date of enactment of this amendment, each annuity payable from the fund which has a commencing date not later than such effective date shall be increased by (1) the per centum rise in the price index, adjusted to the nearest one-tenth of 1 per centum, determined by the Commission on the basis of the annual average price index for calendar year 1962 and the price index for the month latest published on date of enactment of this amendment, plus (2) 6½ per centum if the commencing date (or in the case of the survivor of a deceased annuitant the commencing date of the annuity of the retired employee) occurred on or before October 1, 1956, or 1½ per centum if the commencing date (or in the case of the survivor of a deceased annuitant the commencing date of the annuity of the retired employee) occurred after October 1, 1956. The month used in determining the increase based on the per centum rise in the price index under this subsection shall be the base month for determining the per centum change in the price index until the next succeeding increase occurs. Each survivor annuity authorized (1) by section 8 of the Act of May 29, 1930, as amended to July 6, 1950, or (2) by section 2 of Public Law 85-465, shall be increased by any additional amount which may be required to make the total increase under this subsection equal to 15 per centum or \$10 per month, whichever is the lesser.*

(b) *Each month after the first increase under this section, the Commission shall determine the per centum change in the price index. Effective the first day of the third month which begins after the price index shall have equaled a rise of at least 3 per centum for three consecutive months over the price index for the base month, each annuity payable from the fund which has a commencing date not later than such effective date shall be increased by the per centum rise in the price index (calculated on the highest level of the price index during the three consecutive months) adjusted to the nearest one-tenth of 1 per centum.*

(c) *Eligibility for an annuity increase under this section shall be governed by the commencing date of each annuity payable from the fund as of the effective date of an increase, except as follows:*

(1) *Effective from its commencing date, an annuity payable from the fund to an annuitant's survivor (other than a child entitled under section 10(d)), which annuity commences the day after annuitant's death and after the effective date of the first increase under this section, shall be increased by the total per centum increase the annuitant was receiving under this section at death, except that the increase in a survivor annuity authorized by section 8 of the Act of May 29, 1930, as amended to July 6, 1950, shall be computed as if the annuity commencing date had been the effective date of the first increase under this section.*

(2) *For purposes of computing an annuity which commences after the effective date of the first increase under this section to a child under section 10(d), the items \$600, \$720, \$1,800, and \$2,160 appearing in section 10(d) shall be increased by the total per centum increase allowed and in force under this section for employee annuities which commenced after October 1, 1956, and, in case of a deceased annuitant, the items 40 per centum and 50 per centum appearing in section 10(d) shall be increased by the total per centum increase allowed and in force under this section to the annuitant at death.*

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(d) No increase in annuity provided by this section shall be computed on any additional annuity purchased at retirement by voluntary contributions.

(e) The monthly installment of annuity after adjustment under this section shall be fixed at the nearest dollar, except that such installment shall after adjustment reflect an increase of at least \$1.

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PART I—VOLUNTARY CONTRIBUTIONS

SEC. 881. (a) Any participant may, at his option and under such regulations as may be prescribed by the President, deposit additional sums in multiples of 1 per centum of his basic salary, but not in excess of 10 per centum of such salary, which amounts together with interest at 3 per centum per annum, compounded annually at the end of each fiscal year through June 30, 1960; semiannually as of December 31, 1960; annually thereafter as of December 31, and proportionately for the period served during the year of his retirement, including all contributions made during or for such period, shall, at the date of his retirement and at his election, be—

- (1) returned to him in a lump sum; or
- (2) used to purchase an additional life annuity; or
- (3) used to purchase an additional life annuity for himself and to provide for a cash payment on his death to a beneficiary whose name shall be notified in writing to the Secretary by the participant; or
- (4) used to purchase an additional life annuity for himself and a life annuity commencing on his death payable to a beneficiary whose name shall be notified in writing to the Secretary by the participant with a guaranteed return to the beneficiary or his legal representative of an amount equal to the cash payment referred to in paragraph 3.

(b) The benefits provided by subparagraphs 2, 3, or 4 of paragraph (a) of this section shall be actuarially equivalent in value to the payment provided for by paragraph (a)(1) of this section and shall be calculated upon such tables of mortality as may be from time to time prescribed for this purpose by the Secretary of the Treasury.

(c) In case a participant shall become separated from the Service for any reason except retirement on an annuity, the amount of any additional deposits with interest at 3 per centum per annum, compounded as is provided in paragraph (a) of this section, made by him under the provisions of this paragraph shall be refunded in the manner provided in section 841 for the return of contributions and interest in the case of death or separation from the Service.

(d) Any benefits payable to an officer or to his beneficiary in respect to the additional deposits provided under this paragraph shall be in addition to the benefits otherwise provided under this title.

PART J—COST-OF-LIVING ADJUSTMENTS OF ANNUITIES

SEC. 882. (a) On the basis of determination made by the Civil Service Commission pursuant to section 18 of the Civil Service Retirement Act, as amended, pertaining to per centum change in the price index, the following adjustments shall be made:

(1) Effective April 1, 1966, if the change in the price index from 1962 to 1965 shall have equaled a rise of at least 3 per centum, each annuity payable from the fund which has a commencing date earlier than January 2, 1965, shall be increased by the per centum rise in the price index adjusted to the nearest one-tenth of 1 per centum.

(2) Effective April 1 of any year other than 1966 after the price index change shall have equaled a rise of at least 3 per centum, each annuity payable from the fund which has a commencing date earlier than January

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2 of the preceding year shall be increased by the per centum rise in the price index adjusted to the nearest one-tenth of 1 per centum.

(b) Eligibility for an annuity increase under this section shall be governed by the commencing date of each annuity payable from the fund as of the effective date of an increase, except as follows:

(1) Effective from the date of the first increase under this section, an annuity payable from the fund to an annuitant's survivor (other than a child entitled under section 821(c)), which annuity commenced the day after the annuitant's death, shall be increased as provided in subsection (a) (1) or (a) (2) if the commencing date of annuity to the annuitant was earlier than January 2 of the year preceding the first increase.

(2) Effective from its commencing date, an annuity payable from the fund to an annuitant's survivor (other than a child entitled under section 821(c)), which annuity commences the day after the annuitant's death and after the effective date of the first increase under this section, shall be increased by the total per centum increase the annuitant was receiving under this section at death.

(3) For purposes of computing an annuity which commences after the effective date of the first increase under this section to a child under section 821(c), the items \$600, \$720, \$1,800, and \$2,160 appearing in section 821(c) shall be increased by the total per centum increase allowed and in force under this section and, in case of a deceased annuitant, the items 40 per centum and 50 per centum appearing in section 821(c) shall be increased by the total per centum increase allowed and in force under this section to the annuitant at death. Effective from the date of the first increase under this section, the provisions of this paragraph shall apply as if such first increase were in effect with respect to computation of a child's annuity under section 821(c) which commenced between January 2 of the year preceding the first increase and the effective date of the first increase.

(c) No increase in annuity provided by this section shall be computed on any additional annuity purchased at retirement by voluntary contributions.

(d) No increase in annuity provided by this section shall apply to amounts paid under authority of section 5 of Public Law 84-503 as amended, section 4 of the Foreign Service Annuity Adjustment Act of 1965, or any other law authorizing annuity grants to widows.

(e) The monthly installment of annuity after adjustment under this section shall be fixed at the nearest dollar.

§ 1401a. Adjustment of retired pay and retainer pay to reflect changes in Consumer Price Index

(a) Unless otherwise specifically provided by law, the retired pay or retainer pay of a member or former member of an armed force shall not be recomputed to reflect any increase in the rates of basic pay for members of the armed forces if that increase becomes effective after the effective date of this section.

[(b) In January of each calendar year after 1963, the Secretary of Defense shall determine the percent that the annual average of the Consumer Price Index (all items—United States city average) published by the Bureau of Labor Statistics for the preceding calendar year has increased over that for 1962 or, if later, for the calendar year year preceding that in which the most recent adjustment in retired pay and retainer pay has been made under this subsection. If the Secretary determines the percent of that increase to be 3 or more, the retired pay or retainer pay of a member or former member of an armed force who became entitled to that pay before January 2 of the year in which the Secretary makes that determination shall, as of April 1 of that year, be increased by that percent, adjusted to the nearest one-tenth of 1 percent.]

(b) The Secretary of Defense shall determine the per centum that the Consumer Price Index for each calendar month after the calendar month immediately preceding the effective date of this Act has increased over the base Consumer Price Index (that for the calendar month immediately preceding the effective date of this Act or, if later, that used as the basis for the most recent adjustment of retired pay and retainer pay under this subsection). If the Secretary determines that, for three consecutive calendar months, the index has shown an increase of at least 3 per centum over the base index, the retired pay and retainer pay of members of the Armed Forces who became entitled to that pay before the first day of the third calendar month beginning after the expiration of those three months shall be increased, effective that day, by the highest per centum of increase in the index during those three months, adjusted to the nearest one-tenth of 1 per centum.

Section 5 of H. R. 9075:

"SEC. 5. (a) The retired pay or retainer pay of a member or former member of a uniformed service who is entitled to that pay computed under rates of basic pay in effect before the effective date of this Act shall be increased, effective that date, by the per centum (adjusted to the nearest one-tenth of 1 per centum) that the Consumer Price Index (all items--United States city average), published by the Bureau of Labor Statistics, for the calendar month immediately preceding the effective date of this Act has increased over the average monthly index for calendar year 1962."